

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

ASSATA ACEY,

*Plaintiff*

v.

INDUCTEV,

*Defendant.*

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CIVIL ACTION

No. 2:23-1438

**FRCP 15(a)(2) Motion for Leave to Amend**

Without fully understanding dismissal of claims with prejudice, beyond the indication that those claims are dismissed without leave to amend—but knowing that failure to provide the proposed amendment can be fatal to a request for leave to amend—I submit this motion to clarify to the court my intended amendment of count I of my complaint- which I believe by incorporation would also amend Counts III, IV and IX and XX of my complaint. I also apologize if this motion is redundant but need a clear record as to whether the court is inclined to permit the proposed amendment.

**Method of incorporation**

- ¶ (108) of Count III: “I invoke the allegations from counts I and II”.
- ¶ (116) of Count IV: “Calling forth the allegations of counts I-III, I suffered discrimination for opposing unlawful practices when Defendant purposefully intimidated me via email in response to my complaints of workplace harassment”.
- ¶ (171) of Count IX: “Calling forth previous allegations, I experienced harassment that was based in racial bias and stereotypes that would not have applied to me had I been white”.

- ¶ (278) of Count XX (precedented by Hoy v. Angelone, 720 A.2d 745, 754 (Pa. 1998), weight of retaliation in IIED): “Bringing forth all previous allegations, I was subjected to an egregious and ongoing combination of various forms of unlawful harassment that was intentionally, aided, escalated, or enacted by Defendant”.

#### **Summary of Proposed Amendment**

- Remove lines 94-102 of the original count, insert lines 94a-127a (provided below).

#### **Proposed Amendment for Count I of my Complaint**

94a. At that time, no disclosure of planned company-wide training was made to me.

95a. On 02/10/2022, In response to my suggestion of movies to endorse for black history month, I met with Ms. Talis and discussed the company’s declination to endorse the list as well as my reasons for suggesting it (in which I complained of my experiences of racial harassment at InductEV).

96a. During my meeting with Ms. Talis she continued, as with the sexual harassment complaints, to diminish my complaints, even as far as to insist that I was seeing every action as racism.

96a. Immediately after meeting with Ms. Talis, I reported the company’s declination, and the content of my complaints to my supervisor via teams messaging:

**3:08:40 PM Assata:** Judy has decided to make everyone redo diversity training and plans to teach mustache mam how to not risk company lawsuit. She may be reaching put to you abt Brian (I've explained that it's been handled etc but she was clear she wanted something easy to try)

We can't have movies be they ain't got a program to promote each holiday etc(idk why they don't start with this konth)

**3:23:27 PM Joren:** That's grea tt ohear.

*p.28 of Doc 40, collection of Teams Messages between Myself and Joren Wendschuh from pp.608-611 of Doc 40-2*

97a. Because the meeting had also upset me, I then discussed her criticisms with my then-boyfriend (now husband) over the phone and then via text:

2/10/2022 16:15:58

I also want to back up and validate what you said re how you had to be super composed and talk slowly and deliberately despite feeling emotional and how that really sucked...

2/10/2022 16:16:19

I think it definitely is partly (or largely) cultural

2/10/2022 16:17:13

Assata (+17702311017)

And um yeah I think the thing about is everything racism is a natural response to a world where there's much more racial instances than someone imagined happening at one time.

It's often a redundant approach bc of the thousands of black folks who decide they are the problem or that other blacks are the problem and deal with chronic stress and anxiety of questioning if it's all in their head.

So usually every instance blk individuals are thinking if it's just them, and the stuff they express is after such thought

*p. 2(bottom half) of Ex. 1, Post meeting (with Ms. Talis)-Post call (with Mr. Hackman) Text Messages between myself and Mr. Hackman on 02/10/2022 about Ms. Talis' critique of my complaints, excited utterance/timely account.*

99a. on 02/14/2022, after her perceived “philosophical” critique of my complaints of workplace racial harassment, Ms. Talis sent me the following email:

**From:** Judy Talis <judy.talis@momentumdynamics.com>  
**Sent:** Monday, February 14, 2022, 10:45 AM  
**To:** Assata Acey <Assata.Acey@momentumdynamics.com>  
**Subject:** Per our Discussion

Assata:

Thanks again for spending time with me last week to share your concerns. In follow-up, you raised a general concern surrounding behavior that you believe constitutes unconscious bias. During our meetings, I asked if there were specific individuals or incidents about which you were making a complaint and/or needed to be addressed and you responded no, but added that there were interactions that you have had with other employees that you believe might be useful to incorporate into future company training.

In response, I would like to invite you to send me some brief notes concerning these examples and I will certainly review them for inclusion into our upcoming workplace training. You may send those to me at your convenience and I will let you know if I have any questions or need additional discussion with you.

Thank you for sharing your thoughts and input. Additionally, if you at any time believe that there are matters which you believe violate our policies against harassment or discrimination, please let me know immediately.

Regards,  
Judy

*p.1 of Doc 15-50, Follow up Email Ms. Talis sent to me, 02/14/2022 (redlines added for focus)*

100a. On the surface, the email appeared inviting, but I understood Ms. Talis' email as a claim that I had:

- 1) made no complaint of racial harassment or discrimination, and
- 2) declined to render **any** specific events or persons with whom I have had trouble.

101a. Her email devastated but did not surprise me, as it only underlined my suspicion that she would allow her personal definition of racial bias and her views of my experiences to determine whether she professionally acknowledged my complaints or supported/created any administrative record of my having complained.

102a. On 02/15/2022, one day after her email, Ms. Talis arranged a meeting with my supervisor

through private message, indicating her intent to discuss my complaints:

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Message

**From:** Judy Talis [judy.talis@momentumdynamics.com]  
**Sent:** 2/15/2022 8:06:01 PM  
**To:** Joren Wendschuh [joren.wendschuh@momentumdynamics.com]

Sure I will be in tomorrow. I also want to speak to you about Assata and some things she shared with me. My calendar is up to date but regardless I will find time for you.

*p. 638 of Doc 40-2 Teams message/adverse party Statement Sent by Judy Talis to Joren Wendschuh*

103a. On the afternoon of the alleged meeting date, and in response to the content discussed with

Ms. Talis, Mr. Wendschuh **texted me the following apology:**

Received	02/16/2022 12:44:08 PM	Joren(boss) (+1203300399 0)	Also had a conversation with Judy. She explained about the Tom issue on January 25th at 3pm. I'm sorry, I didn't consciously process it, as I have no recollection on it at all. Other instances yes, but not that one. Also discussed some re future promotions for you and career path. The conversation from last week did not get talked about. That's still between us and we should work out where we are with that a bit more this week, maybe just a brief written email rewriting job description and responsibilities so that we're both in agreement.
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*p. 1(bottom messages) of Ex. 2 Text Message sent from Joren Wendschuh to my Phone on 02/16/2022, highlighter added for emphasis.*

104a. The details of Mr. Wendschuh's apology ("Tom issue on January 25<sup>th</sup> at 3pm") led me to believe that Ms. Talis had been able to recall, identify and **explain** at least one **specific** issue/incident (also occurring at a **specific** time and concerning a **specific** individual) that I had complained to her about in our meeting (Ex 2).

105a. Furthermore, it implied that Ms. Talis had been able to recall, identify, and discuss this incident while Mr. Wendschuh had "no recollection on it at all" (Ex. 2).

106a. Ms. Talis' ability, criticism, and clandestine actions caused me to view her email's underlying claim as more than a subjective viewpoint or honest mistake.

107a. In our 02/10/2022 and 02/11/2022 meetings, I had told Ms. Talis how those incidents I complained about impacted me emotionally, and that (through my proposed movie list) I was

actively seeking ways to decrease the racial harassment I felt and witnessed at work.

108a. These details had also been supported through the email she had responded to, in which I presented the movie list as a way to retain diverse staff, encourage collaboration and to “support diversity and growing beyond our personal experiences”:

**From:** Assata Acey <[Assata.Acey@momentumdynamics.com](mailto:Assata.Acey@momentumdynamics.com)>  
**Sent:** Monday, February 7, 2022 10:06:42 AM  
**To:** Judy Talis <[judy.talis@momentumdynamics.com](mailto:judy.talis@momentumdynamics.com)>  
**Cc:** Joren Wendschuh <[joren.wendschuh@momentumdynamics.com](mailto:joren.wendschuh@momentumdynamics.com)>  
**Subject:** BHM Movie recommendations

Hi Judy, I hope this email finds you well. I’m unsure what Momentum’s stance is on black history month, or if this is even appropriate.

However, I wanted to recommend 14 movies to consider watching for Black History Month—to support diversity and growing beyond our personal experiences.

I believe this continuous growth enhances collaboration, as well as attractiveness, and retention of diverse talent pools.

Through their historical or anthropological elements of Black culture and varied levels of seriousness and lightheartedness, these movies showcase give a curated and varied view of black American experiences.

Names and short summaries below.

*p.2(top of page) of Ex. 3, email from myself to Judy Talis on 02/07/2022*

109a. Ms. Talis knew (or should have known) her email would be distressing because it alleged the uncomfortable time I had spent (explaining incidents of workplace harassment and engaging her criticisms of whether I viewed everything through a racial lens) as less than a complaint of workplace racial harassment.

110a. In addition to her knowing exclusion of my complaint of Tom Hornberger’s behavior, Ms. Talis’ email also invited me to provide “brief notes” (p. 1 of Doc 15-50).

111a. However, my negative experiences---disclosing complaints to her, reading that these disclosures were still being held as insufficient to amount a complaint, and hearing of her convenient ability to recall with my manager—caused me to view her invitation as insincere.

112a. It appeared that Ms. Talis had already understood my complaints and that, accordingly, repeating myself in contradiction of her would only anger her.

113a. The risk of openly contradicting and or offending a C-level employee (Ms. Talis being the acting Chief Administrative Officer), after they had already criticized my complaints and revisited those details with my manager, that risk seemed both pointless and damaging.

114a. Intimidation is about power; Ms. Talis knew I had complained of specific incidents, I was the only other witness to my complaining of the incidents to her; Ms. Talis, holding significant power over my employment, compensation and future promotions insisted that no record existed and then challenged me to disagree; I did not accept the challenge.

115a. The only evidenced corrective action by Ms. Talis (that could be applied to all my complaints to her) was her emailed commitment to plan a company-wide diversity training (p.1 of Doc 15-50).

116a. While acceptable on its face, Ms. Talis communicated the timing of this plan for diversity training (that it would occur at least 4 months after my having complained to her) off-record, by approaching me on 02/23/2022 while I was alone in my work area:

12:02:38 PM Assata Acey: Judy looked me in eye and asked if I'd d[o]ne anything fun over weekend

12:02:50 PM Assata Acey: Meh [b]ut also confirmed diversity training is in summerb

12:03:12 PM Joren Wendschuh: Sounds good.

*p.4 of Doc 73, Collection of Teams Messages between Myself and Joren Wendschuh on 02/23/2022 from pp. 13-38 of Doc 73-3*



Messages - Assata

+17176391313

2/23/2022 11:56:55

Assata (+17702311017)

If this is what barrenness is like I double down on my desire to not make children

2/23/2022 11:57:09

Judy just stopped by my desk...  
\*really quiet and meek schoolgirl voice\* "Dannnnn....do you maybe have extra safety glasses—the kind you gave to Mike that are orange and low-profile."  
\*hands her a pair, not saying a word\*  
"Thaaaaaanks you're my favorite person now."

2/23/2022 11:57:19



2/23/2022 11:58:05

What does it have to do with making children? I don't think I follow

2/23/2022 12:00:37

You want something from wawa?

2/23/2022 12:03:14

Assata (+17702311017)

Judy came by and asked me just jiw if I'd been doing my fun 5hings this past weekend

2/23/2022 12:03:29

Assata (+17702311017)

Also states training starts in summer

*p. 1 of Ex. 4 Text Messages between Myself and Daniel Hackman on 02/23/2022, Timely Account*

119a. Her expressed timeline, and choice to express this to me directly, confirmed my suspicion that she wanted me to be personally aware that she neither saw my concerns as needing immediate correction, nor felt that the impact of those experiences was worth any timely correction.



120a. Ms. Talis' choice to communicate off-the record (and without witnesses or written memoranda) also led me to believe that she was purposefully presenting a false impression of concern and earnestness in her email.

121a. I tried to move on from Ms. Talis's response to my complaints, and I continued to reach out to my boss for moral support, but my experiences of workplace racial harassment continued to affect me and my work for the defendant:

**4:03:46 PM Assata:** Do I ask hary to purchase and coordinate?

**4:04:15 PM Joren:** Sure please.

**4:06:07 PM Joren:** And put in as "approval needed"

**4:34:58 PM Assata:** im so scared to send this email

**4:35:06 PM Joren:** Which one?

**4:35:09 PM Joren:** Wait

**4:35:12 PM Assata:** for lab uniforms

**4:35:19 PM Joren:** Ok. Pass through me then.

**4:35:46 PM Joren:** Just do everything as you would, just remove purchasing from the to line

**4:38:55 PM Assata:** done

**4:49:34 PM Joren:** I've noticed that the last 2-3 days you've been super aversive, in a lot of ways.

**4:50:45 PM Assata:** idk if its more or if Im being honest about why some tasks take longer

**4:52:04 PM Assata:** I also feel partially responsible for ppl hurting my feelings-like I should make it easier for them not to—I really want everyone to be happy and not just me. Jorges thoughts got unde my skin a bit and the world always screams about the perspective of the oppressive person in a situation

*p. 42 of Doc 40, Collection of Teams Messages between me and Joren Wendschuh on 04/07/2022 from pp.1632-1659 of Doc 40-2*

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Message

**From:** Assata Acey [Assata.Acey@momentumdynamics.com]  
**Sent:** 3/22/2022 3:16:47 PM  
**To:** Joren Wendschuh [joren.wendschuh@momentumdynamics.com]

Rob took my tools from my workstatoin yesterday morning and watched me look for them until i took them from tool area and reused. I was actively using them

*p. 1095 of Doc 40-2 Teams Message from myself to Joren Wendschuh on 03/22/2022*

122a. Through her educational/experiential background, Ms. Talis knew her duty to investigate and enact corrective action for complaints of workplace racial harassment.

123a. She has also stated in her 04/12/2024 affidavit that any involvement she had in my claims would be documented in the Defendant's records:

CERTIFICATION OF JUDITH TALIS

1. I am a former employee of InductEV and Momentum Dynamics.
2. On April 8, 2024, Ms. Acey asked me to answer the following questions, under oath:

Questions:

1. Is there any instance Ms. Talis can recall where she stuck up for or protected Ms. Acey from a racially charged action or comment while working for InductEV/Momentum Dynamics?

Answer: Any incident involving Ms. Acey that was brought to my attention was investigated and documented. I do not recall the specifics, but the company's documents would reflect my personal involvement in the matter, if any.

*Ex. 5 Judy Talis' affidavit- Adverse Party Statement on 04/12/2024, highlighter added for focus.*

124a. Being that discovery has passed and the defendant has failed to produce any records of investigations, it is concluded that either no formal investigation of my concerns was conducted, or these records are being unlawfully withheld by the defendant.

125a. I therefore conclude that Ms. Talis either failed to investigate these claims, or that any records of her investigations would show them to be inadequate or otherwise flawed.

126a. I attribute my continued experience of harassment to the fact that from the date that I complained to the date that I left on disability leave, Ms. Talis failed to properly investigate or take corrective action on my complaints.

127a. The "committed" and "acceptable" company-wide diversity training did not occur until November of 2022, three months after Ms. Talis was terminated by the defendant, two months and after I had been terminated.

[Rest of Original Count Continues]

103. By diligently and purposefully intimidating me against making further complaints of racial

harassment, the Defendant intentionally violated 42 U.S.C. §2000e-3(a); therefore, I demand judgment in my favor and against the defendant, in an undetermined award amount together with all applicable affirmative action, compensatory and punitive damages as granted under U.S.C. §2000e-7, and 42 U.S.C. §1981a(a)(1), as well as any other relief designated by the court.

Sincerely,

/s/ Assata Acey Hackman

Assata Acey Hackman (Pro Se)

5121 Brown St,

Philadelphia, PA 19139

[aceyassata@gmail.com](mailto:aceyassata@gmail.com)

770-231-1017

Date: 04/22/2024